

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BENJAMIN A. BRUMMETT,

Plaintiff,

-V-

CAPITAL ONE BANK (USA), National Association, et al.,

Defendants.

21-CV-0604 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

Plaintiff filed this action in New York State court on November 30, 2020, against Defendants Capital One Bank (USA), National Association (“Capital One”), Trans Union, LLC (“Trans Union”), and Equifax Information Services, LLC (“Equifax”). *See* ECF No. 1-2. Plaintiff served Trans Union with a copy of the complaint, summons, and other papers on January 18, 2021. *See* ECF No. 1 (“Notice of Removal”), ¶ 1. On January 22, 2021, Trans Union removed the case to this Court. *Id.*

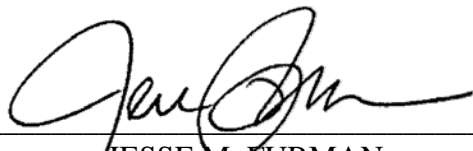
When a case is removed, “*all* defendants who have been properly joined and served must join in or consent to the removal of the action.” 28 U.S.C. § 1446(b)(2)(A) (emphasis added). That is, all non-removing defendants “must independently express their consent to removal.” *Pietrangelo v. Alvas Corp.*, 686 F.3d 62, 66 (2d Cir. 2012) (per curiam). An exception to this rule exists, however, for defendants who have “not been served with service of process at the time the removal petition is filed.” *Russell v. S. Shore Indus. Ltd.*, No. 19-CV-8494 (VSB), 2019 WL 6888614, at *3 (S.D.N.Y. Dec. 18, 2019) (internal quotation marks omitted).

Trans Union's notice of removal gives no indication that any other Defendant has consented to the removal of this action. Furthermore, Trans Union states only that, "[a]s of the date of th[e] Notice of Removal, Defendant Trans Union LLC is the only Defendant in this case," Notice of Removal ¶ 5, but it does not indicate whether the remaining Defendants have been served or not. Accordingly, Trans Union shall keep the Court apprised of when the remaining Defendants have been served promptly after Trans Union learns of such service, and in any event, no later than **thirty days from the date of removal**, Trans Union shall file a letter indicating the status of service on the remaining Defendants.

Trans Union is ordered to serve a copy of this Order to all parties in this case and file proof of such service **within two business days of the date of this Order**.

SO ORDERED.

Dated: January 26, 2021
New York, New York



JESSE M. FURMAN
United States District Judge